



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Cottrell Engineering Corporation

**File:** B-242973

**Date:** May 21, 1991

Michael H. Payne, Esq., Starfield & Payne, for the protester.  
Lester Edelman, Esq., and Laura K. Meeker, Esq., Department of  
the Army, for the agency.  
Glenn G. Wolcott, Esq., and Paul I. Lieberman, Esq., Office of  
General Counsel, GAO, participated in the preparation of the  
decision.

### DIGEST

Agency properly canceled solicitation for harbor dredging  
where lowest bid was more than 25 percent above government  
estimate and government estimate was reasonably based on costs  
for similar work under prior contracts.

### DECISION

Cottrell Engineering Corporation protests the cancellation of  
invitation for bids (IFB) No. DACW54-91-B-0025, issued as a  
small business set-aside by the United States Army Corps of  
Engineers for maintenance dredging in Silver Lake Harbor and  
Rollison Channel, North Carolina. The Army canceled the  
solicitation because it determined that all bids received  
were unreasonably high and because sufficient funds were not  
available for this contract. Cottrell contends that the  
government estimate was unreasonably low and asserts that the  
agency was obligated to reallocate other appropriated funds to  
permit performance of the requirements under this solici-  
tation.

We deny the protest.

The IFB was issued on December 17, 1990, and sought bids for  
three line items: (1) mobilization/demobilization;  
(2) dredging (Silver Lake Harbor); and (3) dredging (Rollison  
Channel). The government estimate of the cost to perform the  
requirements under the IFB was \$472,800 and the agency had  
determined to allocate a maximum of \$650,000 for performance

of this requirement. At the January 16, 1991, bid opening, the Army received three bids of which Cottrell's \$696,000 bid was low. A comparison of Cottrell's bid and the government's estimate, broken down by line item, revealed the following:

<u>Line Item</u>	<u>COTTRELL</u>		<u>GOV'T ESTIMATE</u>	
	<u>Cost Per Cubic Yd.</u>	<u>Amount</u>	<u>Cost Per Cubic Yd.</u>	<u>Amount</u>
1. Mobilization & Demobilization		\$348,000		\$141,800
2. Dredging--Silver Lake Harbor (90,000 cu. yd.)	\$2.90	261,000	\$2.90	261,000
3. Dredging--Rollison Channel (20,000 cu. yd.)	2.70	<u>54,000</u>	3.50	<u>70,000</u>
TOTAL		\$696,000		\$472,800

The Army concluded that all bids received were unreasonably high and that there were insufficient funds available to perform the contract. Accordingly, the Army canceled the solicitation.

As shown above, Cottrell's bid exceeded the government estimate only with regard to line item 1, "Mobilization and Demobilization."1/ The difference between Cottrell's bid and the government's estimate for this line item is primarily attributable to Cottrell's assertion that the agency should have included an additional \$150,000 to \$200,000 for the cost of a "standby" tugboat. Cottrell asserts that this was a necessity due to "the exposed area of the dredging which create[s] a serious risk to the men and equipment performing the work."

The Army disagrees with Cottrell's characterization of the risk involved and states that an 18-inch dredge has performed the contract work in this area without using a standby tug "four out of the last five times such dredging has been

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1/ Cottrell's protest challenges various aspects of the Government's calculation of estimated costs for the dredging itself (line items 1 and 2). In light of the fact that Cottrell's bid for dredging is less than the government's estimate, we find no factual basis for Cottrell's protest to the extent it asserts the government estimate for dredging is unreasonably low.

accomplished." The Army also has provided examples of historical mobilization costs associated with dredging at Silver Lake Harbor and Rollison Channel that were incurred between 1986 and 1990, the highest such cost being \$171,000. Cottrell has not submitted any evidence that the agency's assertions regarding prior mobilization efforts and costs are inaccurate.<sup>2/</sup>

In establishing a government estimate for anticipated contract costs, an agency may reasonably consider historical costs for similar work previously performed. See, e.g., U.S. Elevator Corp., B-224237, Feb. 4, 1987, 87-1 CPD ¶ 110. Based on the information the agency submitted regarding prior mobilization costs for dredging in this area, and in the absence of any evidence that the agency's information is inaccurate, we find the government's estimate of costs reasonable. See Groathouse Constr., B-235236; B-235250, July 13, 1989, 89-2 CPD ¶ 44.

An IFB may be canceled after bid opening if the prices of all otherwise acceptable bids are unreasonable. Federal Acquisition Regulation § 14.404-1(c)(6). A determination that a bid is unreasonably high may properly be based on comparisons with government estimates, past procurement history, current market conditions, or any other relevant factors. Missouri Forge, Inc., B-234741.2, July 14, 1989, 89-2 CPD ¶ 16; Building Maintenance Specialists, Inc., B-186441, Sept. 10, 1976, 76-2 CPD ¶ 233. Here, the agency considered the prices bid in the context of the government's estimate, past procurement history, and legislation which limits the Army Corps of Engineers' contracting authority with respect to contracts for river or harbor improvement where the contract price would exceed the government's estimate by more than 25 percent. 33 U.S.C. § 624(a)(2) (1988). Since all bids received were more than 25 percent above the government's estimate, the contracting officer properly canceled the solicitation.

Cottrell initially asserted that prior to the bid opening date, the Army was using one of its own dredges to perform the work advertised under this IFB. Cottrell asserted that this

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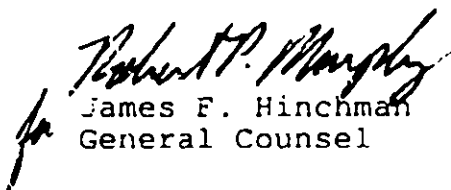
<sup>2/</sup> In commenting on the agency report, Cottrell refers to recent dredging work performed by another company (Atkinson Dredging Company) and asserts that, "contrary to the assertions made in the agency's protest report," Atkinson recently performed dredging in this area accompanied by a standby tug. Cottrell's statement regarding Atkinson does not call into question the accuracy of the information presented by the Army, since the Army acknowledged that a standby tug was used once during the last five times dredging has been performed in this area.

demonstrates bad faith on the part of the Army in that the Army had no intention of awarding a contract under this solicitation. Cottrell asked for recovery of the bid preparation costs it asserts it was improperly induced to incur.

The Army denied Cottrell's allegation that it was performing work advertised under this IFB prior to bid opening. The Army stated that the dredging area covered by this IFB is an extremely high shoaling area and that the government-owned dredge began work 10 days prior to the bid opening date in an attempt to sustain conditions to assure a safe navigation channel until a contract dredge arrived. The Army added that its use of the government-owned dredge did not change the quantity or the character of dredging work advertised since a survey conducted 2 weeks after the bid opening date revealed an increase of 17,000 cubic yards of material to be dredged over the amount existing when the solicitation was issued.

Cottrell has not rebutted the Army's assertions. Instead, Cottrell argues that the Army's statements regarding the high level of shoaling in this area support its contention that the government's estimate was unreasonably low. Since Cottrell has not rebutted the Army's response to its allegation of bad faith, we deem Cottrell to have abandoned that issue. See TM Sys., Inc., B-228220, Dec. 10, 1987, 87-2 CPD ¶ 573.

The protest is denied.

  
for James F. Hinchman  
General Counsel